

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Antoine Land, Individually, and on Behalf of
All Others Similarly Situated,,

Plaintiff,

v.

Case No. 1:10-CV-7640

Frontline Communications, Inc., Gina Urso,
Comcast Corporation and Comcast Cable
Communications Management LLC,

Defendants.

**DEFENDANTS COMCAST CORPORATION'S AND COMCAST CABLE
COMMUNICATIONS MANAGEMENT LLC'S MOTION TO DISMISS**

Defendants Comcast Corporation and Comcast Cable Communications Management LLC (collectively, "Comcast"), by their attorneys, respectfully submit their Rule 12(b)(6) Motion To Dismiss Plaintiff's claims brought under the Fair Labor Standards Act, 29 U.S.C. §201 *et. seq.* ("FLSA"), the Illinois Minimum Wage Law, 820 I.L.C.S. .105/1 *et. seq.* ("IMWL"), the Illinois Wage Payment and Collection Act 820 I.L.C.S. 115/1 *et. seq.* ("IWPCA"), the Illinois Employee Classification Act ("IECA") and Illinois state law of unjust enrichment, quantum meruit, and breach of implied contract, pled in Plaintiffs' Class Action Complaint ("Complaint").

1. On or about October 20, 2010, Plaintiff filed his Complaint against Comcast, alleging violations of wage and overtime-based claims under state and federal law. (Doc. No. 1, Ex. A)

2. On December 1, 2010, Defendants Frontline Communications, Inc. and Gina Urso (collectively, "Frontline"), with the consent of Comcast, removed the action from the Circuit

Court of Cook County to the United States District Court for the Northern District of Illinois.
(Doc. No. 1)

3. Plaintiff claims violations of the IWPCA (Count I), the IMWL (Count II), the Illinois state law of unjust enrichment (Count III), quantum meruit (Count IV), and breach of implied contract (Count V), and IECA (Count VI), and seeks to recover alleged unpaid overtime from Comcast and Frontline on the theory that Comcast and Frontline jointly employed Plaintiff and a class of technicians. Plaintiff also claims violations of the FLSA (Count VII).

4. Comcast's motion to dismiss should be granted because the claims in the present suit are barred by the Honorable Milton I. Shadur's February 25, 2009 ruling that Comcast is not a joint employer, because the FLSA preempts Plaintiff's state common law claims to the extent they seek to recover unpaid overtime, and because the language of the IECA applies only to construction work.

WHEREFOR, for the reasons set forth above and more fully in Comcast's Memorandum of Law in Support of Their Motion To Dismiss, Comcast respectfully requests that this Court dismiss Plaintiff's state and federal wage and hour claims and IECA claim in their entirety and grant such other relief as the Court deems appropriate.

COMCAST CORPORATION AND
COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

By: /s/ Sari M. Alamuddin

By Their Attorneys

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